

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

LARRY MORRISON, Reg. No. 43820-112,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 2:18cv39-WHA
)	[WO]
AMANDA HUGHES, <i>et al.</i> ,)	
)	
Defendants.)	

RECOMMENDATION OF THE MAGISTRATE JUDGE

Before the court are Plaintiff's Motion for Summary Judgment filed on October 9, 2018 (Doc. No. 28) and Plaintiff's Motion for Default Judgment filed on October 17, 2018 (Doc. No. 29). As grounds for relief in both his Motion for Summary Judgment and Motion for Default Judgment, Plaintiff complains that the defendants named in his amended complaint have not yet filed an answer. Plaintiff seeks a judgment awarding compensatory and punitive damages.

Plaintiff originally filed a *Bivens*-type complaint on January 18, 2018. *See* Doc. 1. Twice thereafter, Plaintiff was directed by the court to file amended complaints, as Plaintiff's pleadings contained numerous claims unrelated to each other in time or type and set forth allegations in a rambling, conclusory, and narrative form making it difficult to decipher specific claims against each individual defendant. *See* Doc. Nos. 13 & 16. Plaintiff filed his second amended complaint on August 6, 2018. Doc. No. 21.

On October 18, 2018, the court entered an order directing Plaintiff to file an amendment to his second amended complaint identifying in which capacity various named

defendants were being sued. Doc. No. 30. Plaintiff's amendment is due in this court on or before November 2, 2018.

As of this Recommendation, this court has not yet entered orders directing Defendants to file a special report and answer addressing Plaintiff's amended complaint. Under the circumstances, the court finds no basis for granting Plaintiff's Motion for Summary Judgment or Plaintiff's Motion for Default Judgment, both of which are predicated on Defendants' failure to file an answer addressing Plaintiff's claims.

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that:

1. Plaintiff's Motion for Summary Judgment (Doc. No. 28) be denied;
2. Plaintiff's Motion for Default Judgment (Doc. 29) be DENIED.

It is further

ORDERED that the parties shall file any objections to this Recommendation or before November 13, 2018. A party must specifically identify the factual findings and legal conclusions in the Recommendation to which objection is made; frivolous, conclusive, or general objections will not be considered. Failure to file written objections to the Magistrate Judge's findings and recommendations under 28 U.S.C. § 636(b)(1) will bar a party from a *de novo* determination by the District Court of legal and factual issues covered in the Recommendation and waives the right of the party to challenge on appeal the District Court's order based on unobjected-to factual and legal conclusions accepted or adopted by the District Court except upon grounds of plain error or manifest injustice. *Nettles v. Wainwright*, 677 F.2d 404 (5th Cir. 1982); 11th Cir. R. 3-1. *See Stein v. Lanning Securities, Inc.*, 667 F.2d 33 (11th Cir. 1982).

DONE this 30th day of October, 2018.

/s/ Wallace Capel, Jr.
CHIEF UNITED STATES MAGISTRATE JUDGE